

RESTRICTION REQUIREMENT

The Examiner has required restriction among claims of Group I and Group II as follows:

Group I: Claims 1-21, drawn to tubes, classified in class 428, subclass 35.7.

Group II: Claims 22-26, drawn to processes of making bent tubes classified in class 264, subclass (unknown).

In response, Applicants provisionally elect Group I, claims 1-21 drawn to tubes, classified in class 428, subclass 35.7, with traverse.

Applicants submit that claims 22-26, directed to the process of making bent tubes are properly included in the present invention. The method claimed in claims 22-26 can only be used to form the product claimed in claims 1-21. No additional search will be required. Applicants respectfully request that Group II, claims 22-26 be examined in the present application.

Alternately, Applicants reserve their right to rejoinder of the non-elected claims prior to a notice of allowance for the elected claims of Group I in accordance with the guidance given by the Commissioner of Patents and Trademarks in 1184 OG 86. See *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 37 USPQ2d 1663 (Fed. Cir. 1996). See also MPEP 821.04, which states,

Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. See MPEP Section 806.05(f) and Section 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 C.F.R. 1.142. See MPEP Section 809.02(c) and Section 821 through Section 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

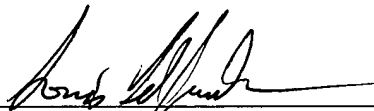
Thus, Applicants reserve the right to amend the claims of Group II to include all the limitations of the product claims and rejoin them once claims 1-21 are allowed.

CONCLUSION

In view of the above remarks, withdrawal of this restriction requirement is respectfully requested.

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Respectfully submitted,

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